

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Appellant,)	No. ED101165
)	Appeal from the Circuit Court of
vs.)	the City of St. Louis
)	Honorable Michael W. Noble
ROBERT METZINGER, Respondent.)	Filed: February 24, 2015

The State appeals from an order of the Circuit Court of the City of St. Louis dismissing with prejudice the information charging Robert Metzinger (Defendant) with making a terrorist threat under Section 574.115. The State claims that the trial court erred in dismissing the information because: (1) the information followed the wording of MACH-CR 28.30, charged the statutory elements of the offense, and apprised Defendant of the facts constituting the elements of the offense charged; (2) the trial court did not have authority to dismiss the information for insufficiency with prejudice; and (3) the trial court improperly considered whether Defendant's communications constituted "true threats."

AFFIRMED.

Division Four holds: To the extent that the information was insufficient for failure to provide the language of the tweets that formed the basis for the charge, the State remedied the alleged deficiency by providing the specific language at issue in its response to Defendant's motion to dismiss. The trial court did not err in considering before trial whether Defendant's communications constituted "true threats" because neither party disputed that Defendant tweeted the statements attributed to him and the parties argued extensively about whether the tweets were "true threats" at the hearing on Defendant's motion to dismiss. Because the tweets that formed the basis for the information did not constitute "true threats," the information failed to allege a violation of Section 574.115. Finally, the trial court did not exceed its authority when it dismissed the information with prejudice because, whether the trial court characterized its dismissal as with or without prejudice, the dismissal foreclosed any further prosecution under Section 574.115 with respect to the four tweets at issue here.

Opinion by: Patricia L. Cohen, P.J.
Roy L. Richter, J., and Robert M. Clayton III., J., concur.

Attorney for Appellant: Veronica E. Harwin
Attorney for Respondent: Ryann C. Carmody

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